

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PERRY VICKERS,

Plaintiff,
v.

1:23-CV-00527

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

BRENDA K. SANNEs,
Chief United States District Judge

DECISION and ORDER

Before the Court is Plaintiff's request for an award of attorney's fees in the amount of \$1,006.92 and costs in the amount of \$402 incurred in this appeal of the Commissioner of Social Security's denial of Plaintiff's benefits. See dkt. # 12. Plaintiff contends he is entitled to attorney's fees and costs pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. He contends that he was the prevailing party, that the government's litigation position was not substantially justified, that his net assets are worth less than \$2 million, and that the case has ended with a final order.

The Commissioner has no objection to Plaintiff's request for \$1,006.92 in attorney fees under the EAJA. See dkt. # 13. The Commissioner also has no objection to Plaintiff's request for \$402.00 in costs. *Id.* The Commissioner indicates:

Plaintiff has not submitted an assignment of fees or requested that any awarded EAJA fees be paid to his attorney. See Docket 12. EAJA fees are "payable to the litigant and [are] subject to a Government offset to satisfy a pre-existing debt that the litigant owes the United States." *Astrue v. Ratliff*, 560 U.S. 586, 589 (2010); see *McAlpine v. Astrue*, No. 5:10-0817, 2012 WL

5183630, at *2 (N.D.N.Y. Oct. 18, 2012) (EAJA fees are payable to the litigant, not the attorney). If, at the time of the EAJA order, Plaintiff has agreed to assign any fees to his attorney and does not owe a debt to the government that is subject to offset, the Commissioner has no objection to paying fees directly to counsel.

Id.

Because Plaintiff has not submitted an assignment of fees or requested that any awarded EAJA fees be paid to his attorney, attorney's fees will be paid directly to Plaintiff subject to any government offset.

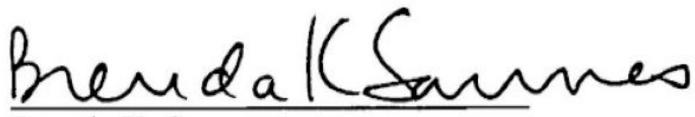
Conclusion

Having examined the parties' filings including Plaintiff's counsel's declaration in support of the application for attorney's fees, dkt. # 12-2, the Court finds that the fees sought are recoverable and reasonable. The Plaintiff's motion for attorney's fees and costs, dkt. # 12, is hereby **GRANTED**, as follows:

1. Attorney's fees are awarded to Plaintiff in the amount of \$1,006.92, with these fees subject to a Government offset to satisfy any pre-existing debt that the litigant might owe to the United States;
2. Costs are awarded to Plaintiff in the amount of \$402.

IT IS SO ORDERED.

Dated: June 3, 2024



Brenda K. Sannes
Chief U.S. District Judge